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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/926,296	12/27/2001	Yasutaka Ito	214810US0PCT	4965

22850 7590 12/19/2003

OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.  
1940 DUKE STREET  
ALEXANDRIA, VA 22314

EXAMINER
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THOMAS, ALEXANDER S

ART UNIT	PAPER NUMBER
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1772

DATE MAILED: 12/19/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/926,296

Applicant(s)

ITO ET AL.

Examiner

Alexander Thomas

Art Unit

1772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10 July 2003 and 02 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 13-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 13-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 10,12 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Double Patenting***

1. Claims 13-22 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-17 of U.S. Patent No. 6,507,006. Although the conflicting claims are not identical, they are not patentably distinct from each other because the patent claims include all the limitations of the instant claims.
2. Claims 13-22 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-8 of copending Application No. 09/926,297. Although the conflicting claims are not identical, they are not patentably distinct from each other because the reference claims contain all the limitations of the instant claims.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alexander Thomas whose telephone number is 703-308-2421. The examiner can normally be reached on 6:30-4:00 M-THUR.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 703-308-4251. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Art Unit: 1772

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

ALEXANDER S. THOMAS  
PRIMARY EXAMINER

ast



Form PTO 1449  
(Modified)U.S. DEPARTMENT OF COMMERCE  
PATENT AND TRADEMARK OFFICEATTY DOCKET NO.  
214810US90PCT

JUL 10 2003

SERIAL NO.  
09/926,296

## LIST OF REFERENCES CITED BY APPLICANT

APPLICANT  
Yasutaka ITO, et al.RCE Filed  
HerewithGROUP  
1772

RECEIVED

JUL 15 2003

TC 1700

## U.S. PATENT DOCUMENTS

EXAMINER INITIAL		DOCUMENT NUMBER	DATE	NAME	CLASS	SUB CLASS	FILING DATE IF APPROPRIATE
AK	AA	5,456,757	10/10/1995	Aruga, et al.	—	—	
AK	AB	6,507,006	01/14/2003	Hiramatsu, et al.	—	—	
AK	AC	6,465,783	10/15/2002	Ito, et al.	—	—	
AK	AD	6,475,606	11/05/2002	Niwa	—	—	
	AE						
	AF						
	AG						
	AH						
	AI						
	AJ						
	AK						
	AL						
	AM						
	AN						

## FOREIGN PATENT DOCUMENTS

		DOCUMENT NUMBER	DATE	COUNTRY	TRANSLATION	
					YES	NO
AK	AO	11-312570	11/9/99	Japan (w/ English translation)	xx	X
AK	AP	1 109 423 A1	06/20/01	Europe		
AK	AQ	2-275770	11/09/90	Japan (w/ English abstract)		xx
AK	AR	0 393 524	10/24/90	Europe ABSTRACT ONLY		
AK	AS	7-11446	1/13/95	Japan (w/ English abstract) corresponds to US 5,456,757		xx
	AT					
	AU					
	AV					

## OTHER REFERENCES (Including Author, Title, Date, Pertinent Pages, etc.)

	AW	
	AX	
	AY	
	AZ	

☐ Additional References sheet(s) attached

Examiner

A. Nara

Date Considered 12-14-03

\*Examiner: Initial if reference is considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.